S.B. CIVIL WRIT PETITION NO.903/1995.
VELJI & ANR.
Vs.
THE DISTRICT SOCIAL WELFARE OFFICER, SOCIAL WELFARE DEPARTMENT, BANSWARA & ANR.

DATE OF ORDER : 01.02.2007.

HON'BLE MR. GOVIND MATHUR, J.

None present for the petitioners
Mr. Shyam Ladrecha, A.G.A., for the respondent/s.

By this petition for writ, a challenge is given to the award dated 22.10.1994 passed by the Labour Court, Udaipur in Industrial Dispute No.101/91 (Velji and Anr. Vs. Social Welfare Officer, Banswara).

In brief the facts of the case are that the appropriate government under its notification dated 11.11.1991 referred an industrial dispute for its adjudication to the Labour Court, Udaipur in the terms as to whether termination of workmen Velji and Vekji by the employer - District Probation-cum-Social Welfare Officer, Banswara w.e.f. 1.10.1990 is valid and proper, if not, then for what relief the workmen are entitled. The Labour Court by award impugned held that the appointment was given to the petitioners by Mess Committee of the Hostel, therefore, they cannot be treated employees of Social Welfare Department under Social Welfare Officer, Banswara. Being aggrieved by the

same, this petition for writ is preferred.

It is averred in the petition that appointments were given to the petitioners by the Social Welfare Officer and not by the Mess Committee, therefore, it is Social Welfare Officer, Banswara only that could be treated as employer of the petitioners.

It is pertinent to note that the Government of Rajasthan provided certain administrative instructions with regard to Management of Governmental and Granted Hostels in the name of "The Governmental and Granted Hostels Management Rules, 1982". Under the instructions referred above (though named as rules), the Mess Committee is nothing but a Committee of inhabitant of Hostel to Manage day to day affairs to run and administer the Hostel. The power with regard to appointment of Class IV employee including Cook and Chowkidar in accordance with the Rule 5 and 6 of the Rules of 1982 is with Social Welfare Department. It is further relevant to note that to run the government hostels, the Mess Management Committee acquired fund from the State Government and the committee is having no independent source of income. As such, it is only the Government of Rajasthan that is running, managing and administering the

granted hostels. Learned Labour Court without examining this aspect of the matter by treating the workmen employed in the Hostel at par with the orderlies working with Rajasthan State Electricity Board held that the petitioners were not in employment of Social Welfare Department. Such comparison of the petitioners with orderlies of the Board is made by giving reference of a judgment of this Court, but surprisingly enough no particulars of the judgment are given in the award. The finding given by the Labour Court in view of the discussion made above is apparently erroneous. The petitioners were working with the granted hostel run by the Social Welfare Department, therefore, they were to be treated in the employment of Social Welfare Department.

Accordingly, this petition for writ is allowed. The award impugned dated 22.10.1994 passed by the Labour Court, Udaipur is quashed. The Labour Court is directed to decide the industrial dispute referred to it by the appropriate government under Notification No. 1(1)(188)Shra.Ni./91 dated 11.11.1991 afresh by considering the petitioners as the workmen employed with the Social Welfare Department.

(GOVIND MATHUR),J.

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